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BY FACSIMILE

June 23, 2008

Honorable Reice Buchwald  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: Jordan Mann v. Plus One Fitness et al.  
07 CV 5691(RB)

Your Honor:

We represent the plaintiff in the above referenced action and write this letter seeking a pre-motion conference to resolve various discovery issues and obtain an order pursuant to FRCP 30(b)(7) permitting plaintiff's deposition be conducted by telephone or video.

Contrary to defendants' letter to this court, dated June 23, 2008, the plaintiff has not refused to attend her deposition but rather is unable to return to mainland USA because of the restrictions placed on her by her employer in Guam. An affidavit explaining plaintiff position is attached.

We had hoped to produce her this week for her deposition but when informed of her inability to return. Accordingly we seek the opportunity to make a motion permitting the plaintiff to be produced by telephone or video conference.

I thank Your Honor for your time and consideration of this request.

Respectfully,

  
NKEREUWEM UMOH

Cc: Hon. Debra Freeman, Magistrate Judge, via Facsimile, Harold Derschowitz, Esq., Deborah Martin Notcross, Esq., counsels for defendants, via email.

Before me, the undersigned authority, personally appeared Jordan Mann, who, after being duly sworn declares the following under penalty of perjury under the laws of the United States:

My name is Jordan Mann. I am over the age of twenty-one and am in all ways competent to make this affidavit.

I have personal knowledge of the facts recited in this affidavit and make this affidavit in support of my motion to have my deposition taken telephonically or by video.

On or about June 16, 2006, I was terminated by the defendants for reasons that violated the laws of the United States and the laws of New York. This action was filed to obtain redress for my unlawful termination.

Following my termination, a vigorous effort was made on my part to find employment, but I was not able to, until February 2008, when I was offered, and accepted, employment at PIC Resort. PIC Resort is located in Guam.

I accepted employment as a massage therapist here in Guam, work similar to what I did while employed by the defendants.

Currently I'm under an employment contract without any vacation days. Hence, I'm unable to come to New York without violating my employment contract and experiencing a financial penalty placed upon me by my employer (I would have to reimburse them for approximately \$1800 for airfare they furnished to fly me out here). Furthermore, I will be attending New York University abroad in another country starting August 23, 2008 and my semester won't end under Dec. 13, 2008.(However I can appear in New York after Dec. 13, 2008.

In addition, I currently don't have the additional monetary funds to pay for a roundtrip

ticket and accommodation from Guam to NYC at this time.

I write make this motion respectfully requesting an directing the defendants to conduct my deposition telephonically or by video.

I thank your Honor for her time and consideration of this matter.

Dated: 6-23-08

Signed:   
Jordan Mann

SWORN TO AND SUBSCRIBED before me, this 23<sup>rd</sup> day of June, 2008

Dated: 6/23/08

Signed: 

